

1 GORDON P. ERSPAMER (CA SBN 83364)  
2 JAMES M. SCHURZ (CA SBN 145874)  
3 REBECCA SNAVELY SAE LAO (CA SBN 222731)  
4 DEREK F. FORAN (CA SBN 224569)  
5 MORRISON & FOERSTER LLP  
6 101 Ygnacio Valley Road, Suite 450  
7 P.O. Box 8130  
Walnut Creek, California 94596-8130  
Telephone: (925) 295-3300

6 Attorneys for Plaintiffs  
CALPINE CORPORATION and CALPINE CONSTRUCTION  
7 FINANCE COMPANY, L.P.

8

9  
10 UNITED STATES DISTRICT COURT  
11  
12 NORTHERN DISTRICT OF CALIFORNIA

13 CALPINE CORPORATION, a Delaware  
14 Corporation, and CALPINE CONSTRUCTION  
15 FINANCE COMPANY, L.P., a Delaware Limited  
16 Liability Partnership,

17 Plaintiffs,

18 v.  
19 WESTERN AREA POWER ADMINISTRATION,  
20 an Agency of the United States Department of  
Energy; MICHAEL S. HACSKAYLO, in his capacity  
21 as Administrator of the Western Area Power  
Administration; SAMUEL WRIGHT BODMAN, in  
22 his capacity as Secretary of Energy of the United  
States, acting by and through the Western Area Power  
Administration; THE UNITED STATES  
DEPARTMENT OF ENERGY, acting by and  
through the Western Area Power Administration; the  
UNITED STATES of AMERICA, acting by and  
through the Western Area Power Administration,

Case No. C05-02241-SI

STIPULATION AND [PROPOSED]  
ORDER CONTINUING DATES FOR  
HEARING ON DEFENDANTS'  
MOTION TO DISMISS AND  
SPECIAL CASE MANAGEMENT  
CONFERENCE ON DISCOVERY

23 Defendants.

24

25

26

27

28

CASE NO. C05-02241-SI

STIPULATION AND [PROPOSED] ORDER CONTINUING DATES ON MOTION TO DISMISS HEARING AND CMC ON DISCOVERY  
wc-109352

1        Due to scheduling conflicts of plaintiff's counsel, plaintiffs have requested, and defendants  
2 have agreed, to stipulate to modify the date of the motion to dismiss hearing and the special case  
3 management conference on discovery.

4        IT IS HEREBY STIPULATED by and between the undersigned, subject to the approval of  
5 the Court, that the hearing date for the motion to dismiss, currently scheduled for October 14, 2005,  
6 2005,<sup>1</sup> will now be continued to October 18, 2005 at 9:00 a.m. Plaintiffs will have until September  
7 13, 2005 to file its opposition to the defendants' motion to dismiss filed on August 2, 2005, and  
8 defendants will file their reply on or before October 4, 2005. It is FURTHER STIPULATED that the  
9 case management conference regarding discovery, currently scheduled for Friday, August 19, 2005 at  
10 2:00 p.m., is continued to Wednesday, August 24, 2005 at 2:00 p.m.

11      Dated: August 17, 2005

GORDON P. ERSPAMER  
JAMES M. SCHURZ  
REBECCA SNAVELY SAELOAO  
DEREK F. FORAN  
MORRISON & FOERSTER LLP

14

By:/s/

Rebecca Snavely Saelao  
Attorneys for Plaintiffs  
Calpine Corporation, and Calpine  
Construction Finance Company, L.P.

17

Dated: August 17, 2005

KEVIN V. RYAN  
UNITED STATES ATTORNEY

18

19

By:/s/

Katherine B. Dowling  
Assistant United States Attorney  
Attorneys for Defendants

21

22

IT IS SO ORDERED.

23

Dated: \_\_\_\_\_, 2005

24

25

26

<sup>1</sup> The hearing on the motion to dismiss had previously been scheduled for September 30, 2005, but was re-set by Order of the Court dated August 17, 2005 to October 18, 2005.

28